

## Message Text

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ACTION EA-06

INFO OCT-01 SS-14 ISO-00 EAE-00 PM-03 SP-02 INR-05 CIAE-00

L-01 NSC-05 NSCE-00 OMB-01 /038 W

----- 063640

P R 051151Z FEB 76

FM AMEMBASSY BANGKOK

TO SECSTATE WASHDC PRIORITY 7835

INFO SECDEF WASHDC

CINCPAC HONOLULU HI

COMUSMACTHAI

DIRNSA

S E C R E T SECTION 1 OF 2 BANGKOK 2502

LIMDIS

E.O. 11652: GDS

TAGS: MARR, PFOR, TH, US

SUBJECT: STATUS OF U.S. RESIDUAL FORCES

REF: (A) BANGKOK 2395 (DTG 041311Z FEB 76), (B) BANGKOK 2396  
(DTG 041324Z FEB 76), (C) 75 BANGKOK 26892 (DTG 291153Z DEC),  
(D) BANGKOK 1360 (DTG 1211231Z JAN 76)

1. AMBASSADOR'S MEETING WITH CHATCHAI AND ANAN FEBRUARY 4 (REF A)  
REPRESENTS UNFORTUNATE NEW TURN IN TENOR OF NEGOTIATIONS BETWEEN  
US AND THAI ON STATUS OF US RESIDUAL PRESENCE. PRIVILEGES AND  
IMMUNITIES OF US PERSONNEL SURFACED AS SIGNIFICANT ISSUE DURING  
DECEMBER 29 MEETING AT FOREIGN MINISTRY (REF C). ON FEBRUARY 4,  
THAI RAISED MATTER IN A STRIKING AND, IN FACT, STRIDENT MANNER.  
PRESENT POSITIONS OF TWO SIDES ARE SHARPLY OPPOSED. THAI "GENERAL  
PRINCIPLES" (REF B), IF AGREED TO AS PROPOSED, MIGHT LEAD TO  
UNACCEPTABLE DEGREE OF THAI JURISDICTION OVER US PERSONNEL AND  
OPERATIONS. US APPROACH, BASED ON EXISTING AGREEMENTS  
(RAMASUN, KO KHA, CHIANG MAI, JUSMAG) AND THEIR EXTENSION  
TO AREAS WHERE NO AGREEMENTS EXIST (PRIMARILY UTAPAO), IS  
CLEARLY NOT ACCEPTABLE TO THE THAI IN CURRENT POLITICAL  
ATMOSPHERE (AS PREDICTED IN REF D). THUS, SOME COMPROMISE

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WILL HAVE TO BE FOUND IN THE VERY NEAR FUTURE.

2. WE BELIEVE THAT THE THAI POSITION DOES NOT RPT NOT REPRESENT A BASIC CHANGE OF POLICY ON THE PART OF THE RTG. THIS IS BASED ON OUR RECENT TALK WITH THE PRIME MINISTER. ANAN MADE IT VERY CLEAR YESTERDAY, PARTICULARLY WHEN THE AMBASSADOR BEGAN TO ALLUDE TO CLOSING UP SHOP IF AGREEMENT COULD NOT BE REACHED, THAT THE RTG IS NOT BUGGED BY THE SIZE OR SCOPE OF THE RESIDUAL PRESENCE WE HAVE BEEN DISCUSSING (ALTHOUGH WE SHOULD ANTICIPATE PROBLEMS ON CERTAIN PARTICULARS). WHY THEY SHOULD WAIT UNTIL ONE MINUTE TILL MIDNIGHT TO RAISE THESE ISSUES WITH US IS UNCLEAR, EXCEPT THAT THIS MOVE EMERGES FROM SIMMERING DISCONTENT WITH US PRIVILEGES IN THAILAND WHICH IN TURN FINDS A HISTORIC BASIS IN RESENTMENT OF FOREIGN EXTTERRITORIAL RIGHTS. WE ARE CONVINCED THAT ANAN'S OWN VIEWS WEIGHT VERY HEAVILY IN THIS EQUATION AND HE OBVIOUSLY BELIEVES THAT THE THAI HAVE US BETWEEN THE HAMMER AND THE ANVIL ON THESE ISSUES AT THIS TIME. THE STYLE WITH WHICH THIS WAS DONE ALSO APPEARS TO INDICATE THAT ANAN HAS ENOUGH CLOUT NOT TO CONSIDER HIMSELF BOUND BY UNDERSTANDINGS WHICH HAVE ALREADY BEEN REACHED WITH CHATCHAI. TO CONDITION THE EXISTENCE OF THE RESIDUAL PRESENCE ITSELF ON ACCEPTANCE OF A NEW SET OF "PRINCIPLES" IS TO IGNORE THE HISTORY OF THE NEGOTIATIONS UP TO NOW. REVISION OF AGREEMENTS OR UNDERSTANDINGS WITH REGARD TO THE STATUS OF OUR PERSONNEL WAS OBVIOUSLY IN THE CARDS BUT THIS CAN BE AND SHOULD HAVE BEEN DONE QUIETLY AND PROFESSIONALLY AND NOT, AS THE AMBASSADOR REPEATEDLY STATED YESTERDAY, AS A LAST MINUTE CONDITION TO OPERATIONS DEEMED TO BE IN OUR MUTUAL ADVANTAGE. IN ANY CASE, WHILE ANAN WAS ABLE TO BRUSH CHATCHAI ASIDE, WE DO NOT THINK HE HAS THE MUSCLE, GIVEN THE KNOWN ATTITUDES OF THE PRIME MINISTER AND THE MILITARY, TO MAKE LIFE SO DIFFICULT FOR US THAT WE WILL CHOOSE TO LEAVE.

3. IN FORMULATING OUR RESPONSE TO THIS NEW SITUATION, WE PROPOSE THAT WE BE GUIDED BY THE FOLLOWING PERCEPTIONS:

A) THAT THIS LAST MINUTE PRESENTATION OF "PRINCIPLES" IS NEGOTIABLE AND CAN BE VERY CONSIDERABLY MODIFIED.

B) THAT FOR THE TIME BEING NEITHER WE NOR THE THAI HAVE ANY REALISTIC ALTERNATIVE TO CONTINUING UNDER EXISTING GROUND

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RULES.

C) THAT WE SHOULD BE PREPARED TO COMMENCE NEGOTIATING AT ONCE ON A STATUS OF FORCES AGREEMENT OR SOME SIMILAR CLARIFICATION OF THE ISSUES OF IMMUNITIES, JURISDICTION, ETC.

4. IF THE DEPARTMENT AGREES WITH THESE PRECEPTIONS, WE WOULD PROPOSE TO HANDLE THE "PRINCIPLES" ALONG THE FOLLOWING LINES:

A. PRINCIPLE 1 - AS A COUNTERPROPOSAL, WE WOULD MAKE A

FURTHER ATTEMPT TO SELL AN APPROACH BASED ON 1950 MIL ASST AGREEMENT. IT SEEMS PRETTY CLEAR, HOWEVER, THAT THIS WILL NOT BE ACCEPTED BY THE THAI. IN THAT EVENT, WE WOULD CONTEMPLATE AS A FALL-BACK PROPOSING AN ARRANGEMENT BASED ON THE NATO STATUS OF FORCES AGREEMENT FOR IMMUNITIES AND JURISDICTIONAL MATTERS.

B. PRINCIPLE 2 SEEMS TO POSE LITTLE DIFFICULTY. LANGUAGE COULD PRESUMABLY BE TINKERED WITH SO AS TO BASE IT ON US DOCTRINE, AFTER THE MODEL OF ARTICLE 1 OF THE US-JAPAN SECURITY TREATY.

C. PRINCIPLE 3 - THIS COULD PROBABLY BE ACCEPTABLE WITH QUALIFICATIONS TO MAKE IT LESS SWEEPING. THE THAI, BASED ON THE FEBRUARY 4 MEETING WITH THE AMBASSADOR, ALREADY RECOGNIZE THAT THE WORDING GOES BEYOND WHAT THEY INTEND.

D. PRINCIPLE 4 WOULD POSE NO DIFFICULTY IF IT WERE AMENDED TO MAKE CLEAR THAT NOT ALL AMERICAN PERSONNEL WILL BE REPLACED BY THAI AND THAT SOME WILL REMAIN.

E. PRINCIPLE 5 POSES NO APPARENT PROBLEM. EVEN IF A CEILING IS PLACED ON CIVILIAN AS WELL AS MILITARY PERSONNEL (WE WOULD SEEK TO LIMIT IT TO THE LATTER), IT SHOULD BE POSSIBLE FOR US TO COME UP WITH A WORKABLE FIGURE.

F. PRINCIPLE 6 IS NEBULOUS, BUT SEEMS RELATED TO PRINCIPLE 1. DURING FEBRUARY 4 MEETING, WE DID NOT DISCUSS EXACTLY WHAT THE THAI HAVE IN MIND AS "PRIVILEGES ACCORDED TO TECHNICAL EXPERTS". IF THIS REFERS TO FOREIGN EXPERTS IN THAILAND

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FOR ECONOMIC DEVELOPMENT PROJECTS, WE RECENTLY STUDIED THEIR STATUS IN CONNECTION WITH RENEGOTIATION OF OUR AID AGREEMENT. IN GENERAL, THESE RECEIVE FROM THE RTG SOME SPECIAL PAYMENTS AND ALLOWANCES (HOUSING, MEDICAL, REFUND OF IMPORT DUTIES ON POV'S AND ON CERTAIN CONSUMABLES), LIMITED DUTY-FREE IMPORT PRIVILEGES, AND INCOME TAX EXEMPTION. ON THE OTHER HAND, THEY ARE NOT EXEMPT FROM DRIVERS' LICENSE AND SIMILAR FEES, ARE REQUIRED TO OBTAIN RESIDENCE PERMITS, AND DO NOT HAVE ANY FORM OF IMMUNITY FROM ARREST AND PROSECUTION. SUBJECTION TO THAI JURISDICTION, ESPECIALLY IN INTER SE AND DUTY CASES, WOULD BE A SERIOUS SHORTCOMING AS APPLIED TO STATIONED MILITARY PERSONNEL. WE BELIEVE, HOWEVER, THE THAI CAN BE INDUCED TO RECOGNIZE THE DISTINCTION BETWEEN AMERICAN PERSONNEL ENGAGED IN SECURITY-RELATED OPERATIONS ON THE ONE HAND, AND "TECHNICAL EXPERTS FROM OTHER COUNTRIES" ON THE OTHER.

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S E C R E T SECTION 2 OF 2 BANGKOK 2502

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G. PRINCIPLE 7 MIGHT BE MODIFIED TO PROVIDE FOR REVIEW EVERY TWO YEARS OR OTHER PERIOD OF TIME, AT THE REQUEST OF EITHER PARTY, WITH AGREEMENTS TO REMAIN IN FORCE UNLESS DENOUNCED. DENUNCIATION COULD REQUIRE ONE YEAR'S NOTICE OR SOME OTHER PERIOD OF TIME.

5. WE WOULD LIKE TO RETURN PROMPTLY TO THE FOREIGN MINISTRY WITH THE USG REACTION TO ITS PROPOSAL. AT THE SAME TIME, WE WOULD SUGGEST TO MFA THAT THE APPROACH TAKEN IN OUR NOTE, KEEPING EXISTING AGREEMENTS IN FORCE, BE ACCEPTED BY THE THAI AS AN OPERATING BASIS WHILE NEGOTIATION OF THEIR PROPOSAL PROCEEDS. WE ARE NOT AT ALL SURE THAT THE THAI WILL ACCEPT THIS, BUT BY RESPONDING SUBSTANTIVELY TO THEIR PROPOSAL, WE WOULD BE MOVING TOWARD FINDING A NEGOTIATED SOLUTION.

6. BOTH TONE AND CONTENT OF MEETING WITH CHATCHAI AND ANAN CONTRAST STRIKINGLY WITH AMBASSADOR'S TALK WITH KHUKRIT TWO DAYS EARLIER. KHUKRIT CAN BE EXPECTED TO PLAY A HELPFUL ROLE IF MFA PROVES INTRACTABLE IN ITS POSITION. IT WOULD BE PREMATURE TO GO OVER MFA'S HEAD, HOWEVER, BEFORE WE HAVE GIVEN IT WASHINGTON'S REACTION TO ITS PROPOSAL AND ASCERTAINED ITS

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READINESS TO NEGOTIATE. SO WE PROPOSE NOT TO PLAY THE KHUKRIT CARD YET. WE HAVE, HOWEVER, ALERTED HIM (BANGKOK 2393) TO THE FACT THAT THERE COULD BE A PROBLEM WE SHOULD DISCUSS PRIVATELY.

7. IN SUM, WE BELIEVE WE SHOULD STEER TOWARD A COMPROMISE INVOLVING MFA AGREEMENT TO THE CONTINUATION IN FORCE OF EXISTING AGREEMENTS, OR WHERE NO AGREEMENT EXISTS (AS AT UTAPAO), ESTABLISHED PRACTICE, IN RETURN FOR WHICH US WOULD AGREE TO NEGOTIATE IN GOOD FAITH TOWARD A MUTUALLY SATISFACTORY NEW AGREEMENT.

8. DEPARTMENT'S REACTION AND INSTRUCTIONS REQUESTED SOONEST. WHITEHOUSE

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## Message Attributes

**Automatic Decaptioning:** Z  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** FORCE & TROOP LEVELS, NEGOTIATIONS, STATUS OF FORCES AGREEMENTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 05 FEB 1976  
**Decaption Date:** 28 MAY 2004  
**Decaption Note:** 25 YEAR REVIEW  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** vogelfj  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1976BANGKO02502  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
**Film Number:** D760044-0195  
**From:** BANGKOK  
**Handling Restrictions:** n/a  
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**Office:** ACTION EA  
**Original Classification:** SECRET  
**Original Handling Restrictions:** LIMDIS  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 5  
**Previous Channel Indicators:** n/a  
**Previous Classification:** SECRET  
**Previous Handling Restrictions:** LIMDIS  
**Reference:** 76 BANGKOK 2395, 76 BANGKOK 2396  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** vogelfj  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 02 FEB 2004  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <02 FEB 2004 by morefirh>; APPROVED <29 SEP 2004 by vogelfj>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
04 MAY 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** STATUS OF U.S. RESIDUAL FORCES  
**TAGS:** MARR, PFOR, TH, US, (WHITEHOUSE, CHARLES S), (ANAN), (CHATCHAI CHUNHAWAN)  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006